

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BENJAMIN K. NG,

Petitioner,

v.

JASON BENNETT,

Respondent.

CASE NO. 2:24-CV-717-JHC-DWC

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

The Court, having reviewed the Report and Recommendation of Magistrate Judge David W. Christel (R&R) (Dkt. # 6), Petitioner's Objection to Report and Recommendation (Dkt. # 11), and the remaining record, does hereby ORDER:

- (1) The Court agrees with the R&R that (a) the proposed Petition cannot proceed under 28 U.S.C. § 2241; (b) it should be construed as a petition under 28 U.S.C. § 2254; (c) it is time-barred under 28 U.S.C. § 2244(d)(1); and (d) an evidentiary hearing and certificate of appealability should be denied. Petitioner's objection does not address the issue of the time bar. The Court adopts the R&R.
- (2) Petitioner's federal habeas Petition is dismissed with prejudice.
- (3) Petitioner's motion to proceed *in forma pauperis* (Dkt. 1) and all other proposed filings (Dkts. 1-2-1-8; 7-10; 12) are denied.
- (4) No evidentiary hearing is necessary and a certificate of appealability is denied in this case.

1 (5) The Clerk is directed to send copies of this Order to Petitioner and to the Hon.
2 David W. Christel.

3 **DATED** this 14th day of August, 2024.

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JOHN H. CHUN

5 United States District Judge
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